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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,604	04/16/2004	Aaron Hobart	55616.107558	1194
27526 7590 04/10/2008 HUSCH BLACKWELL SANDERS LLP 4801 Main Street Suite 1000 KANSAS CITY, MO 64112			EXAMINER AFTERGUT, JEFF H	
			ART UNIT 1791	PAPER NUMBER
			MAIL DATE 04/10/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/826,604

**Applicant(s)**

HOBART, AARON

**Examiner**

/Jeff H. Aftergut/

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 8-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 18-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 18-20 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of Niskanen for the same reasons as expressed in the Office action dated June 5, 2007, paragraph 2, therein.
3. Claim 21 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 2 further taken with Fujiwara for the same reasons as expressed in the Office action dated June 5, 2007, paragraph 3 therein.
4. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 3 further taken with Gangemi for the same reasons as expressed in the Office action dated June 5, 2007, paragraph 4 therein.
5. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 2 further taken with Rodriguez for the same reasons as expressed in paragraph 5 of the Office action dated June 5, 2007.
6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 3 further taken with Rodriguez for the same reasons as expressed in paragraph 6 of the Office action dated June 5, 2007.
7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 4 further taken with Rodriguez for the same reasons as expressed in paragraph 7 of the Office action dated June 5, 2007.

8. Claims 1-3, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of Niskanen for the same reasons as expressed in the Office action dated June 5, 2007, paragraph 2, therein further taken with any one of Butterworth et al (US 2002/0170649, newly cited) or Butterworth et al (US 6,372,064, newly cited).

The references to the admitted prior art and Niskanen were cited to show the use of an adhesive applicator to attach the tail of a winding to the wound roll assembly wherein the adhesive nozzle traversed the entire width of the roll of the material being wound. The references failed to teach that those skilled in the art would have disposed the coating mechanism above the core being wound. The applicant is advised that the reference to Niskanen suggested the coating nozzle coat the material from under the core.

Either one of Butterworth et al '064 or Butterworth et al '649 suggested that those skilled in the art would have applied the adhesive material from above the wound roll or from below the wound roll in the alternative. The applicant is more specifically referred to column 5, lines 36-64 of Butterworth et al '064 where the adhesive dispenser was described as being a spray nozzle which was capable of traversing the core and which was disposed above or below the core assembly. The reference to Butterworth '064 suggested that there was an upper belt assembly 28 which was used to convey the material as well as a lower conveying means. It should be noted that Niskanen suggested that one skilled in the art would have also included an upper conveying means (the roller therein). It should be noted that Butterworth '649 has a similar

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disclosure to that of Butterworth '064, see paragraphs [0052]-[0054] of Butterworth et al '649. As it would have been viewed as an alternative location to below the core, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the adhesive material from above the core as taught by either one of Butterworth et al '064 or Butterworth et al '649 when applying an adhesive to a core for a winding operation as taught by Niskanen in the admitted known process for winding and take up of a weatherproof membrane. Where as here two equivalents are interchangeable for their desired function, an express suggestion of the desirability of the substitution of one for the other is not needed to render such substitution obvious, In re Fout, 2134 USPQ 532, In re Siebentritt, 152 USPQ 618.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 8 further taken with Fujiwara.

The references as set forth above in paragraph 8 suggested the overall device for taking up the web of material, however there is no indication that one skilled in the art would have employed a cutting device which was disposed on an arm and which traversed the web in order to sever the same at the location where the core was located. It should be noted that the web material must be cut off when one reaches the desired size of the wound roll of material so that the end portion can be attached to the end of the roll of material. The references did not expressly depict or describe the specific mechanical means used to sever the web in this operation.

The reference to Fujiwara suggested that in a web take up mechanism wherein one was forming rolls of material, it was well known at the time the invention was made

to provide a knife which was responsible for severing a web of material along the length of the same wherein the blade was moved across the web in order to sever the same, see Figures 1-5 and the description of the same. Clearly, those versed in the art of forming a wound web on a rotating core would have understood that the end and the start up of a fresh core would have required that the web was severed prior to the winding up of the same and additionally would have incorporated a severing means which included a knife which traversed the web (as a useful means to sever the web) at a location adjacent where the core was located and which included a blade carried by an arm therein. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the cutting means of Fujiwara in the system for winding up the waterproof sheeting materials as set forth above in paragraph 8 as one would have found it necessary to sever the web and the reference to Fujiwara provided a suitable means for performing such severance.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 9 further taken with Gangemi.

The prior art as expressed above failed to express that the adhesive applicator and the cutting mechanism were associated with the same traversing mechanism which went across the web to apply the adhesive and sever the web. However as expressed above, both of the references to Niskanen and Fujiwara suggested that one would have associated an applicator and a cutter with a traversing mechanism adjacent the core which was to be wrapped, however neither suggested that both the cutter and the adhesive applicator would have been disposed on the same arm mechanism which

traversed the web. However, it was known as evidenced by Gangemi to include a cutting mechanism (a laser cutter) and an adhesive applicator on the same traversing mechanism when providing for the wind up of web material in a set change of a winder. More specifically, cutting mechanism 34 and adhesive applicator 30 were disposed on the same carriage mechanism 38 which traversed the web in the processing where one applied adhesive to the web and severed the same during winding of the web onto a core. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a cutting mechanism and an adhesive applicator on the same carriage which traversed the web as taught by Gangemi as it was known to provide an applicator which traversed the web on a carriage and it was additionally known to provide a cutter which traversed the web on a carriage (separate carriages) whereby the use of a single carriage would have simplified the equipment necessary to perform the operation of adhesive dispensing and cutting in the system for winding a web of material on a core for collection of the same as set forth above in paragraph 9.

11. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 8 further taken with Rodriguez.

While it was known per se to include computer control to control a mechanical process wherein one was changing over one roll of material for another roll (note such control is taken as conventional in the art above), to further evidence that one skilled in the art would have incorporated a computer control system in a roll change over operation of a winder, the reference to Rodriguez et al is cited. Rodriguez suggested that those skilled in the art of winding a roll of material would have included a controller

which included a computer to control the operation of the application of adhesive to the web material as well as the severing of the web material when one was finished rolling the web and ready to start a new roll of material, see adhesive application device 20, cutting mechanism 19 and controller 21 which is a computer based controller for controlling the operation. As it would have eliminated the need for manual interference in the operation of severing and spooling a web of material at the take up device of the same, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a computer assisted controller to control the operation of adhesive application and cutting of the web as taught by Rodriguez et al in the device of taking up the waterproof membrane as set forth above in paragraph 8.

12. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 9 further taken with Rodriguez.

While it was known per se to include computer control to control a mechanical process wherein one was changing over one roll of material for another roll (note such control is taken as conventional in the art above), to further evidence that one skilled in the art would have incorporated a computer control system in a roll change over operation of a winder, the reference to Rodriguez et al is cited. Rodriguez suggested that those skilled in the art of winding a roll of material would have included a controller which included a computer to control the operation of the application of adhesive to the web material as well as the severing of the web material when one was finished rolling the web and ready to start a new roll of material, see adhesive application device 20, cutting mechanism 19 and controller 21 which is a computer based controller for



controlling the operation. As it would have eliminated the need for manual interference in the operation of severing and spooling a web of material at the take up device of the same, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a computer assisted controller to control the operation of adhesive application and cutting of the web as taught by Rodriguez et al in the device of taking up the waterproof membrane as set forth above in paragraph 9.

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 10 further taken with Rodriguez.

While it was known per se to include computer control to control a mechanical process wherein one was changing over one roll of material for another roll (note such control is taken as conventional in the art above), to further evidence that one skilled in the art would have incorporated a computer control system in a roll change over operation of a winder, the reference to Rodriguez et al is cited. Rodriguez suggested that those skilled in the art of winding a roll of material would have included a controller which included a computer to control the operation of the application of adhesive to the web material as well as the severing of the web material when one was finished rolling the web and ready to start a new roll of material, see adhesive application device 20, cutting mechanism 19 and controller 21 which is a computer based controller for controlling the operation. As it would have eliminated the need for manual interference in the operation of severing and spooling a web of material at the take up device of the same, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a computer assisted controller to control the operation of

adhesive application and cutting of the web as taught by Rodriguez et al in the device of taking up the waterproof membrane as set forth above in paragraph 10.

***Election/Restrictions***

14. Claims 8-17 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 7, 2006.

***Response to Arguments***

15. Applicant's arguments with respect to claims 1-7 and 18-25 have been considered but are moot in view of the new ground(s) of rejection.

Butterworth et al '064 or Butterworth et al '649 both suggested that those skilled in the art at the time the invention was made would have incorporated a coating means which was disposed above or below the core as such was known as an alternative position for the dispensing means. The applicant's arguments have therefore been found to be not persuasive in this regard.

The applicant also notes regarding claims 18-28 that the prior art failed to teach that one applied the adhesive to the width of the membrane. The applicant is advised that Niskanen suggested that those skilled in the art would have utilized the adhesive applicator not only to apply the adhesive to the core but also to the edge of the sheet material being wound upon the core at the end of the winding operation, see column 3, lines 21-25. Clearly, the prior art suggested an adhesive applicator which applied adhesive to the width of the sheet material as claimed and one would have performed

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such processing in order to secure the end of the winding (the tail) to the remainder of the wound material.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Jeff H. Aftergut/ whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:30-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeff H. Aftergut/  
Primary Examiner  
Art Unit 1791

JHA  
April 7, 2008